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11 CONSTRUCTION MATERIALS
12 PACIFIC, LLC; CEMEX, INC. and MAX
13 PINA

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 KAREN GRIGORYAN, individually
17 and on behalf of all others similarly
18 situated,

19 Plaintiffs,

20 v.

21 CEMEX CONSTRUCTION
22 MATERIALS PACIFIC, LLC, a
23 Delaware Limited Liability Company;
24 CEMEX, INC., a Louisiana
25 Corporation, MAX PINA, an
26 individual, and DOES 1-50, inclusive,

27 Defendants.

Case No. 5:18-cv-1563 R (KKx)

**STIPULATED PROTECTIVE
ORDER**

1 1. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to

1 enter the following Stipulated Protective Order. The parties acknowledge that this
2 Order does not confer blanket protections on all disclosures or responses to
3 discovery and that the protection it affords from public disclosure and use extends
4 only to the limited information or items that are entitled to confidential treatment
5 under the applicable legal principles. The parties further acknowledge, as set forth in
6 Section 12.3, below, that this Stipulated Protective Order does not entitle them to
7 file confidential information under seal; Civil Local Rule 79-5 sets forth the
8 procedures that must be followed and the standards that will be applied when a party
9 seeks permission from the court to file material under seal.

10 2. GOOD CAUSE STATEMENT

11 This action is likely to involve confidential employment records, personnel
12 files and other valuable research, development, commercial, financial, technical
13 and/or proprietary information, trade secrets or customer and pricing information,
14 for which special protection from public disclosure and from use for any purpose
15 other than prosecution of this action is warranted. Such confidential and proprietary
16 materials and information consist of, among other things, confidential business or
17 financial information, information regarding confidential employment records,
18 personnel files, contact information, confidential business practices, and other
19 confidential research, development, or commercial information (including
20 information implicating privacy rights of third parties), information otherwise
21 generally unavailable to the public, or which may be privileged or otherwise
22 protected from disclosure under state or federal statutes, court rules, case decisions,
23 or common law. Accordingly, to expedite the flow of information, to facilitate the
24 prompt resolution of disputes over confidentiality of discovery materials, to
25 adequately protect information the parties are entitled to keep confidential, to ensure
26 that the parties are permitted reasonable necessary uses of such material in
27 preparation for and in the conduct of trial, to address their handling at the end of the
28 litigation, and serve the ends of justice, a protective order for such information is

1 justified in this matter. It is the intent of the parties that information will not be
2 designated as confidential for tactical reasons and that nothing be so designated
3 without a good faith belief that it has been maintained in a confidential, non-public
4 manner, and there is good cause why it should not be part of the public record of this
5 case.

6 3. DEFINITIONS

7 3.1 Action: this pending federal law suit, Case No. 5:18-cv-1563 R
8 (KKx).

9 3.2 Challenging Party: A Party or Non-Party that challenges the
10 designation of information or items under this Order.

11 3.3 “CONFIDENTIAL” Information or Items: information
12 (regardless of how it is generated, stored or maintained) or tangible things that
13 qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified
14 above in the Good Cause Statement.

15 3.4 Counsel: Outside Counsel of Record and House Counsel (as well
16 as their support staff).

17 3.5 Designating Party: A Party or Non-Party that designates
18 information or items that it produces in disclosures or in responses to discovery as
19 “CONFIDENTIAL.”

20 3.6 Disclosure or Discovery Material: All items or information,
21 regardless of the medium or manner in which it is generated, stored, or maintained
22 (including, among other things, testimony, transcripts, and tangible things), that are
23 produced or generated in disclosures or responses to discovery in this matter.

24 3.7 Expert: A person with specialized knowledge or experience in a
25 matter pertinent to the litigation who has been retained by a Party or its counsel to
26 serve as an expert witness or as a consultant in this Action.

27 3.8 House Counsel: Attorneys who are employees of a party to this
28 Action. House Counsel does not include Outside Counsel of Record or any other

1 outside counsel.

2 3.9 Non-Party: Any natural person, partnership, corporation,
3 association, or other legal entity not named as a Party to this action.

4 3.10 Outside Counsel of Record: Attorneys who are not employees of
5 a party to this Action but are retained to represent or advise a party to this Action
6 and have appeared in this Action on behalf of that party or are affiliated with a law
7 firm which has appeared on behalf of that party, and includes support staff.

8 3.11 Party: Any party to this Action, including all of its officers,
9 directors, employees, consultants, retained experts, and Outside Counsel of Record
10 (and their support staffs).

11 3.12 Producing Party: A Party or Non-Party that produces Disclosure
12 or Discovery Material in this Action.

13 3.13 Professional Vendors: Persons or entities that provide litigation
14 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
15 demonstrations, and organizing, storing, or retrieving data in any form or medium)
16 and their employees and subcontractors.

17 3.14 Protected Material: Any Disclosure or Discovery Material that is
18 designated as “CONFIDENTIAL.”

19 3.15 Receiving Party: a Party that receives Disclosure or Discovery
20 Material from a Producing Party.

21 4. SCOPE

22 The protections conferred by this Stipulation and Order cover not only
23 Protected Material (as defined above), but also (1) any information copied or
24 extracted from Protected Material; (2) all copies, excerpts, summaries, or
25 compilations of Protected Material; and (3) any testimony, conversations, or
26 presentations by Parties or their Counsel that might reveal Protected Material.

27 Any use of Protected Material at trial shall be governed by the orders of the
28 trial judge. This Order does not govern the use of Protected Material at trial.

1 5. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees
4 otherwise in writing or a court order otherwise directs. Final disposition shall be
5 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
6 or without prejudice; and (2) final judgment herein after the completion and
7 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
8 including the time limits for filing any motions or applications for extension of time
9 pursuant to applicable law.

10 6. DESIGNATING PROTECTED MATERIAL

11 6.1 Exercise of Restraint and Care in Designating Material for
12 Protection. Each Party or Non-Party that designates information or items for
13 protection under this Order must take care to limit any such designation to specific
14 material that qualifies under the appropriate standards. The Designating Party must
15 designate for protection only those parts of material, documents, items, or oral or
16 written communications that qualify so that other portions of the material,
17 documents, items, or communications for which protection is not warranted are not
18 swept unjustifiably within the ambit of this Order.

19 Mass, indiscriminate, or routinized designations are prohibited. Designations
20 that are shown to be clearly unjustified or that have been made for an improper
21 purpose (e.g., to unnecessarily encumber the case development process or to impose
22 unnecessary expenses and burdens on other parties) may expose the Designating
23 Party to sanctions.

24 If it comes to a Designating Party's attention that information or items that it
25 designated for protection do not qualify for protection, that Designating Party must
26 promptly notify all other Parties that it is withdrawing the inapplicable designation.

27 6.2 Manner and Timing of Designations. Except as otherwise
28 provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as

1 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for
2 protection under this Order must be clearly so designated before the material is
3 disclosed or produced.

4 Designation in conformity with this Order requires:

5 (a) For information in documentary form (e.g., paper or electronic
6 documents, but excluding transcripts of depositions or other pretrial or trial
7 proceedings), that the Producing Party affix at a minimum, the legend
8 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
9 contains protected material. If only a portion or portions of the material on a page
10 qualifies for protection, the Producing Party also must clearly identify the protected
11 portion(s) (e.g., by making appropriate markings in the margins).

12 A Party or Non-Party that makes original documents available for inspection
13 need not designate them for protection until after the inspecting Party has indicated
14 which documents it would like copied and produced. During the inspection and
15 before the designation, all of the material made available for inspection shall be
16 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
17 documents it wants copied and produced, the Producing Party must determine which
18 documents, or portions thereof, qualify for protection under this Order. Then, before
19 producing the specified documents, the Producing Party must affix the
20 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
21 portion or portions of the material on a page qualifies for protection, the Producing
22 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
23 markings in the margins).

24 (b) for testimony given in depositions that the Designating Party identify
25 the Disclosure or Discovery Material on the record, before the close of the
26 deposition all protected testimony.

27 (c) for information produced in some form other than documentary and for
28 any other tangible items, that the Producing Party affix in a prominent place on the

1 exterior of the container or containers in which the information is stored the legend
2 “CONFIDENTIAL.” If only a portion or portions of the information warrants
3 protection, the Producing Party, to the extent practicable, shall identify the protected
4 portion(s).

5 6.3 Inadvertent Failures to Designate. If timely corrected, an
6 inadvertent failure to designate qualified information or items does not, standing
7 alone, waive the Designating Party’s right to secure protection under this Order for
8 such material. Upon timely correction of a designation, the Receiving Party must
9 make reasonable efforts to assure that the material is treated in accordance with the
10 provisions of this Order.

11 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

12 7.1 Timing of Challenges. Any Party or Non-Party may challenge a
13 designation of confidentiality at any time that is consistent with the Court’s
14 Scheduling Order.

15 7.2 Meet and Confer. The Challenging Party shall initiate the dispute
16 resolution process under Local Rule 37.1 et seq.

17 7.3 The burden of persuasion in any such challenge proceeding shall
18 be on the Designating Party. Frivolous challenges, and those made for an improper
19 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
20 parties) may expose the Challenging Party to sanctions. Unless the Designating
21 Party has waived or withdrawn the confidentiality designation, all parties shall
22 continue to afford the material in question the level of protection to which it is
23 entitled under the Producing Party’s designation until the Court rules on the
24 challenge.

25 8. ACCESS TO AND USE OF PROTECTED MATERIAL

26 8.1 Basic Principles. A Receiving Party may use Protected Material
27 that is disclosed or produced by another Party or by a Non-Party in connection with
28 this Action only for prosecuting, defending, or attempting to settle this Action. Such

1 Protected Material may be disclosed only to the categories of persons and under the
2 conditions described in this Order. When the Action has been terminated, a
3 Receiving Party must comply with the provisions of section 13 below (FINAL
4 DISPOSITION).

5 Protected Material must be stored and maintained by a Receiving Party at a
6 location and in a secure manner that ensures that access is limited to the persons
7 authorized under this Order.

8 8.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
9 otherwise ordered by the court or permitted in writing by the Designating Party, a
10 Receiving Party may disclose any information or item designated
11 “CONFIDENTIAL” only to:

12 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
13 as employees of said Outside Counsel of Record to whom it is reasonably necessary
14 to disclose the information for this Action;

15 (b) the officers, directors, and employees (including House Counsel) of the
16 Receiving Party to whom disclosure is reasonably necessary for this Action;

17 (c) Experts (as defined in this Order) of the Receiving Party to whom
18 disclosure is reasonably necessary for this Action and who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20 (d) the court and its personnel;

21 (e) court reporters and their staff;

22 (f) professional jury or trial consultants, mock jurors, and Professional
23 Vendors to whom disclosure is reasonably necessary for this Action and who have
24 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

25 (g) the author or recipient of a document containing the information or a
26 custodian or other person who otherwise possessed or knew the information;

27 (h) during their depositions, witnesses ,and attorneys for witnesses, in the
28 Action to whom disclosure is reasonably necessary provided: (1) the deposing party

1 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will
2 not be permitted to keep any confidential information unless they sign the
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
4 agreed by the Designating Party or ordered by the court. Pages of transcribed
5 deposition testimony or exhibits to depositions that reveal Protected Material may
6 be separately bound by the court reporter and may not be disclosed to anyone except
7 as permitted under this Stipulated Protective Order; and

8 (i) any mediator or settlement officer, and their supporting personnel,
9 mutually agreed upon by any of the parties engaged in settlement discussions.

10 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED
11 PRODUCED IN OTHER LITIGATION

12 If a Party is served with a subpoena or a court order issued in other litigation
13 that compels disclosure of any information or items designated in this Action as
14 “CONFIDENTIAL,” that Party must:

15 (a) promptly notify in writing the Designating Party. Such notification
16 shall include a copy of the subpoena or court order;

17 (b) promptly notify in writing the party who caused the subpoena or order
18 to issue in the other litigation that some or all of the material covered by the
19 subpoena or order is subject to this Protective Order. Such notification shall include
20 a copy of this Stipulated Protective Order; and

21 (c) cooperate with respect to all reasonable procedures sought to be
22 pursued by the Designating Party whose Protected Material may be affected.

23 If the Designating Party timely seeks a protective order, the Party served with
24 the subpoena or court order shall not produce any information designated in this
25 action as “CONFIDENTIAL” before a determination by the court from which the
26 subpoena or order issued, unless the Party has obtained the Designating Party’s
27 permission. The Designating Party shall bear the burden and expense of seeking
28 protection in that court of its confidential material and nothing in these provisions

1 should be construed as authorizing or encouraging a Receiving Party in this Action
2 to disobey a lawful directive from another court.

3 10. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
4 PRODUCED IN THIS LITIGATION

5 (a) The terms of this Order are applicable to information produced by a
6 Non-Party in this Action and designated as "CONFIDENTIAL." Such information
7 produced by Non-Parties in connection with this litigation is protected by the
8 remedies and relief provided by this Order. Nothing in these provisions should be
9 construed as prohibiting a Non-Party from seeking additional protections.

10 (b) In the event that a Party is required, by a valid discovery request, to
11 produce a Non-Party's confidential information in its possession, and the Party is
12 subject to an agreement with the Non-Party not to produce the Non-Party's
13 confidential information, then the Party shall:

14 (1) promptly notify in writing the Requesting Party and the Non-
15 Party that some or all of the information requested is subject to a confidentiality
16 agreement with a Non-Party;

17 (2) promptly provide the Non-Party with a copy of the Stipulated
18 Protective Order in this Action, the relevant discovery request(s), and a reasonably
19 specific description of the information requested; and

20 (3) make the information requested available for inspection by the
21 Non-Party, if requested.

22 (c) If the Non-Party fails to seek a protective order from this court within
23 14 days of receiving the notice and accompanying information, the Receiving Party
24 may produce the Non-Party's confidential information responsive to the discovery
25 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
26 not produce any information in its possession or control that is subject to the
27 confidentiality agreement with the Non-Party before a determination by the court.
28 Absent a court order to the contrary, the Non-Party shall bear the burden and

1 expense of seeking protection in this court of its Protected Material.

2 11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

3 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
4 Protected Material to any person or in any circumstance not authorized under this
5 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
6 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
7 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
8 persons to whom unauthorized disclosures were made of all the terms of this Order,
9 and (d) request such person or persons to execute the “Acknowledgment and
10 Agreement to Be Bound” that is attached hereto as Exhibit A.

11 12. INADVERTENT PRODUCTION OF PRIVILEGED OR
12 OTHERWISE PROTECTED MATERIAL

13 When a Producing Party gives notice to Receiving Parties that certain
14 inadvertently produced material is subject to a claim of privilege or other protection,
15 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
16 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
17 may be established in an e-discovery order that provides for production without
18 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
19 as the parties reach an agreement on the effect of disclosure of a communication or
20 information covered by the attorney-client privilege or work product protection, the
21 parties may incorporate their agreement in the stipulated protective order submitted
22 to the court.

23 13. MISCELLANEOUS

24 13.1 Right to Further Relief. Nothing in this Order abridges the right
25 of any person to seek its modification by the Court in the future.

26 13.2 Right to Assert Other Objections. By stipulating to the entry of
27 this Protective Order no Party waives any right it otherwise would have to object to
28 disclosing or producing any information or item on any ground not addressed in this

1 Stipulated Protective Order. Similarly, no Party waives any right to object on any
2 ground to use in evidence of any of the material covered by this Protective Order.

3 13.3 Filing Protected Material. A Party that seeks to file under seal
4 any Protected Material must comply with Civil Local Rule 79-5. Protected Material
5 may only be filed under seal pursuant to a court order authorizing the sealing of the
6 specific Protected Material at issue. If a Party's request to file Protected Material
7 under seal is denied by the court, then the Receiving Party may file the information
8 in the public record unless otherwise instructed by the court.

9 14. FINAL DISPOSITION

10 After the final disposition of this Action, as defined in paragraph 4, within 60
11 days of a written request by the Designating Party, each Receiving Party must return
12 all Protected Material to the Producing Party or destroy such material. As used in
13 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
14 summaries, and any other format reproducing or capturing any of the Protected
15 Material. Whether the Protected Material is returned or destroyed, the Receiving
16 Party must submit a written certification to the Producing Party (and, if not the same
17 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
18 (by category, where appropriate) all the Protected Material that was returned or
19 destroyed and (2) affirms that the Receiving Party has not retained any copies,
20 abstracts, compilations, summaries or any other format reproducing or capturing any
21 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
22 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
23 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
24 reports, attorney work product, and consultant and expert work product, even if such
25 materials contain Protected Material. Any such archival copies that contain or
26 constitute Protected Material remain subject to this Protective Order as set forth in
27 Section 4 (DURATION).

28 15. Any violation of this Order may be punished by any and all appropriate

1 measures including, without limitation, contempt proceedings and/or monetary
2 sanctions.

3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

4 DATED: October 30, 2018

JAMES HAWKINS APLC

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6
7 By: /s/ Gregory Mauro
8 JAMES R. HAWKINS
9 GREGORY MAURO
10 Attorneys for PLAINTIFF KAREN
11 GRIGORYAN, individually and on behalf
12 of all others similarly situated

13 DATED: October 30, 2018

HANSON BRIDGETT LLP

14
15
16 By: /s/ Emily Jane Leahy
17 DOROTHY S. LIU
18 EMILY JANE LEAHY
19 Attorneys for DEFENDANTS CEMEX
20 CONSTRUCTION MATERIALS
21 PACIFIC, LLC; CEMEX, INC. and MAX
22 PINA

23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

24 DATED: November 1, 2018

25
26 
27 MANUEL L. REAL
28 District Judge, United States District Court

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury
5 that I have read in its entirety and understand the Stipulated Protective Order that
6 was issued by the United States District Court for the Central District of California,
7 Western Division, on _____, 2018 in the case of *Grigoryan v. CEMEX*
8 *Construction Materials Pacific, LLC, etc., et al*, Case No. 5:18-cv-1563 R (KKx). I
9 agree to comply with and to be bound by all the terms of this Stipulated Protective
10 Order and I understand and acknowledge that failure to so comply could expose me
11 to sanctions and punishment in the nature of contempt. I solemnly promise that I
12 will not disclose in any manner any information or item that is subject to this
13 Stipulated Protective Order to any person or entity except in strict compliance with
14 the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [print or
19 type full name] of _____ [print or type
20 full address and telephone number] as my California agent for service of process in
21 connection with this action or any proceedings related to enforcement of this
22 Stipulated Protective Order.

23 Date: _____

24 City and State where sworn and signed: _____

26 Printed name: _____

28 Signature: _____